

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENTS ON BEHALF OF STUDENT,	OAH Case No. 2015100813
v.	
IRVINE UNIFIED SCHOOL DISTRICT,	
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IRVINE UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015120606
v.	ORDER GRANTING MOTION TO CONSOLIDATE; GRANTING MOTION TO AMEND COMPLAINT; AND GRANTING CONTINUANCE REQUEST
PARENTS ON BEHALF OF STUDENT.	

On October 23, 2015, Parents on Behalf of Student filed a Request for Due Process Hearing in Office of Administrative Hearing case number 2015100813 (Student's Case), naming the Irvine Unified School District. Amongst other issues, Student alleges that District failed to appropriately reassess Student. On November 4, 2015, OAH granted that parties' continuance request, and set the prehearing conference for 1:00 p.m., on March 11, 2016, and hearing for March 21–24, 2016.

On December 14, 2015, District filed a Request for Due Process Hearing in OAH case number 2015120606 (District's Case), naming Student. District asserts that its reassessment of Student was appropriate.

On December 18, 2015, the parties jointly filed a motion to consolidate Student's Case with District's Case and to amend Student's complaint. Parties further requested that OAH continue the consolidated matter to the dates set in OAH's November 4, 2015 order.

APPLICABLE LAW AND DISCUSSION

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when

consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, Student's Case and District's Case involve a common question of law or fact, whether District appropriately reassessed Student, which includes a similar question related to Student's education needs and program. Consolidation furthers the interests of judicial economy because of the commonality of legal and factual issues, documentary evidence and witnesses. Accordingly, consolidation is granted.

Amendment

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The parties' joint motion to amend Student's complaint was submitted more than five days before the hearing, is therefore timely, and is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

The parties' joint motion to continue the initially set dates in Student's amended case to the dates set forth in the November 4, 2015 continuance order demonstrates good cause for a continuance, and is hereby granted.

ORDER

1. Student and District's joint motion to consolidate is granted.
2. Student and District's joint motion to amend Student's complaint is granted.
3. All dates previously set in OAH Case Number 2015120606 (District's Case) are vacated.
4. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order.

5. The consolidated matter shall proceed on the dates set forth in the November 4, 2015 continuance order for OAH Case Number 2015100813 (Student's Case), which shall be designated as the primary case.

DATE: December 21, 2015

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings